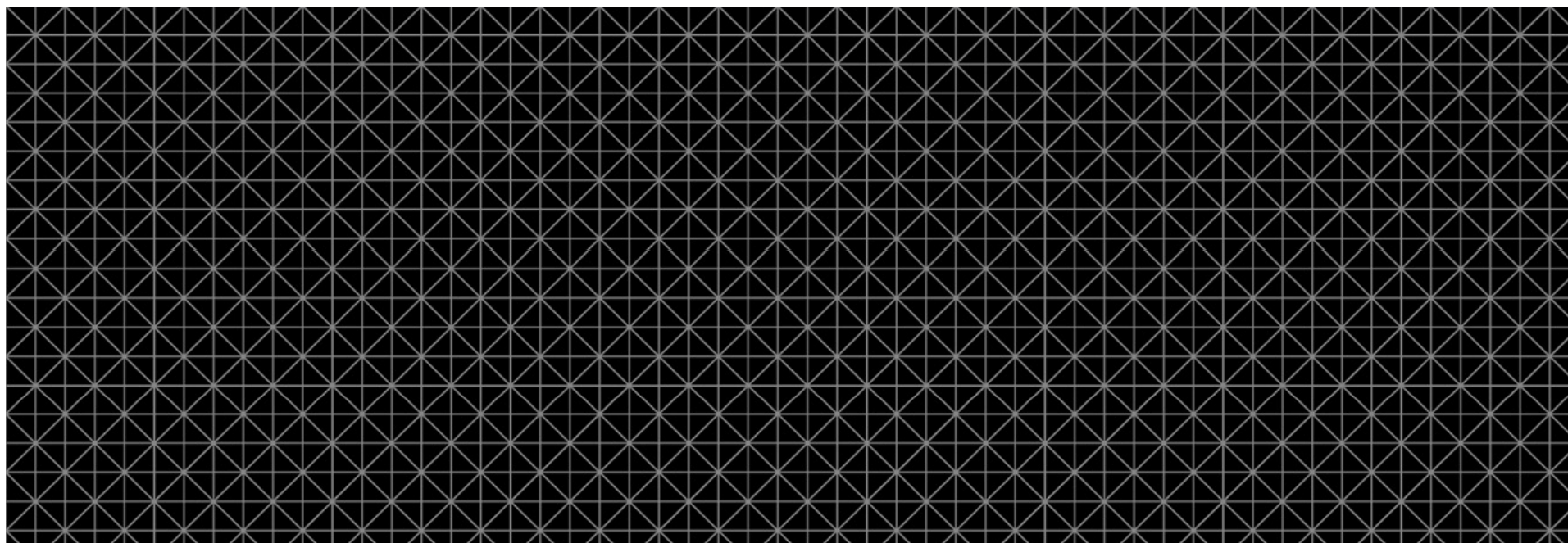


# Swap Data Reporting Rules October 2012



# Reporting Overview

- U.S. jurisdictional split between SEC and CFTC:
  - CFTC regulates swaps
  - SEC regulates security-based swaps
- CFTC has finalized three key reporting rules:
  - Part 43 – Real-Time Reporting of Swap Transaction Data
  - Part 45 – Swap Data Recordkeeping and Reporting Requirements – New Swaps
  - Part 46 – Swap Data Recordkeeping and Reporting Requirements - Historical Swaps
- SEC has yet to promulgate security-base swap rules
- European reporting rules
  - EMIR – Establish reporting obligations (Article 9)
  - ESMA – Final Report (draft technical standards under EMIR) issued September 27, 2012
  - MiFID – Existing reporting obligations for financial institutions
  - MiFIR – Post-trade transaction reporting
- Asian reporting rules
  - Japanese Financial Instruments and Exchange Act, Act for Amendment – Implementing Ordinance
  - Hong Kong Monetary Authority and Securities and Futures Commission Public Consultation Paper, Dealer Working Group response, Consultation Conclusions, Supplemental Consultation Paper
  - Monetary Authority of Singapore – Consultation Paper on Proposed Amendments to the Securities and Futures Act and the Financial Advisors Act

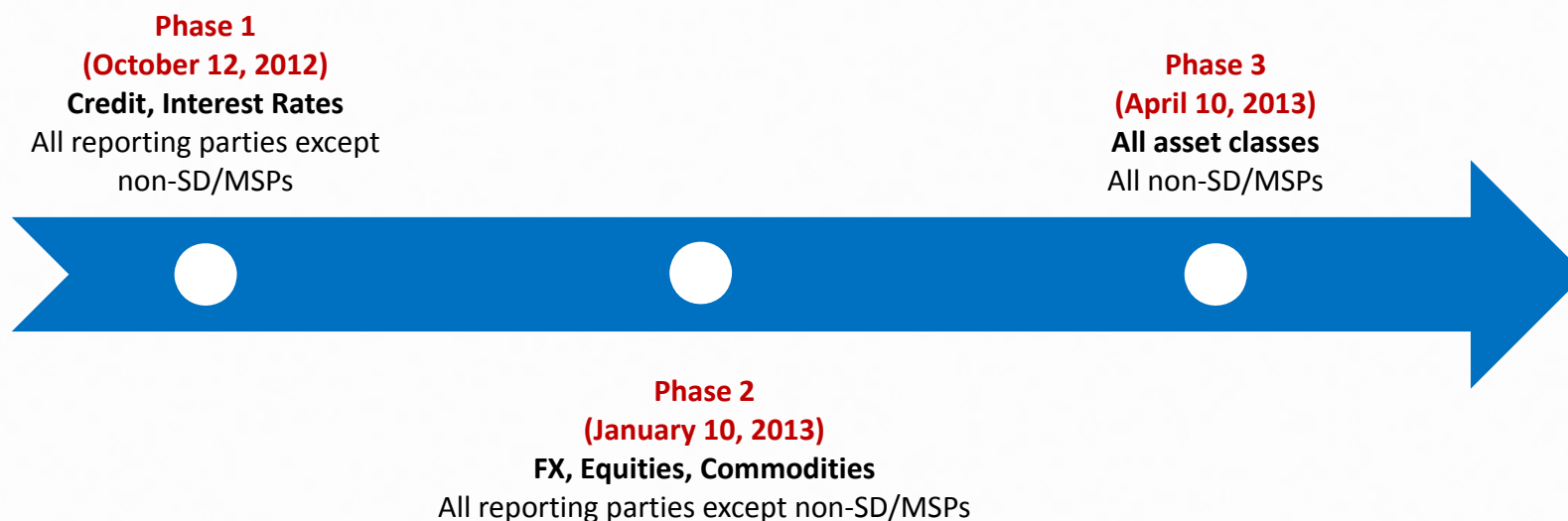
# Global Reporting Regulations

REPORTING		US	Europe	Japan	Singapore	Hong Kong	Australia	Canada
Legislation/ Regulation Status		CFTC Complete SEC In Progress	In Progress	In Progress - Advanced	In Progress	In Progress - Advanced	In Progress - Initial	In Progress - Initial
Projected Compliance Date 1		12-Oct-12	1-Jul-13	1-Apr-13	1-Jul-13	30-Jun-13	1-Jul-13	1-Jul-13
Markets OTC/Listed/Both		OTC	Both	OTC	OTC	OTC	OTC	OTC
Asset Classes (End State, may be phased in)		IRS, Credit, Equity, FX, Commodity	IRS, Credit, Equity, FX, Commodity	IRS, Credit, Equity, FX	IRS, Credit, Equity, FX, Commodity	Phase 1 - IRS, FX. Phase 2 - Equity	IRS, Credit, Equity, FX, Commodity	IRS, Credit, Equity, FX, Commodity
Who Reports		One Party	Both Parties	Both Parties	Both Parties	Both Parties	TBD	TBD
	Note	Verification requirement by SDR (can be deemed after 2 days)	Mutual report of common instrument data Each report counterparty data, but can be done for both parties by one	Financial firms only. Utilizing BIC for CP identification.	Financial firms only First report deemed for other party, but other party maintain responsibility as "true and correct"	GTR Reporting as agent to HKMA TR.		
Data Types	Trade Data	T	T+1	T+3	T+1	T+2	T+1	T+1
	Valuation	Yes	Yes	No	Yes	No	TBD	TBD
	Collateral	No	Yes	No	No	No	TBD	TBD
Backloading		Yes	Yes	Yes	Yes	Yes	TBD	TBD
Real Time Price Dissemination		Performed by SDR	Required, to be performed by Approved Publication Arrangement	TBD	TBD	No	TBD	TBD
Other Reporting	Transaction		Transaction Reporting "push" reporting still required under MIFIR					
	Resolution		BoE - Bank Resolution Reporting: Aggregate trade valuation, collateral positions and valuations, netting information					

# US Reporting Commencement

## *When does US reporting commence?*

- CFTC approved rules for real-time reporting (Part 43) and swap data recordkeeping and reporting requirement (Part 45), including the phase-in implementation timeline as follows:



- SD/MSP for Phase 1 – extension provided which effectively delays reporting to end of year.
- Need to obtain (CFTC Interim Counterparty Identifier) CICI utility

# Who reports in US?

In order to reduce reporting burden, the rules provide that only one party is responsible for reporting each transaction:

- For swap transactions executed on a SEF or DCM: the **SEF** or **DCM** will be responsible for reporting the transaction to the SDR
- Trade accepted for clearing by a DCO: follows same SDR trade reported to prior to clearing
- For uncleared **off-facility swaps**, the Reporting Party is:
  - If only one party is a Swap Dealer (SD) or Major Swap Participant (MSP), the SD or MSP
  - For SD versus MSP, the Swap Dealer
  - If both parties are Non-SD/Non-MSP, the party which is a Financial Entity
  - If both parties are of the same classification, to be agreed between the parties

# US reporting time requirements

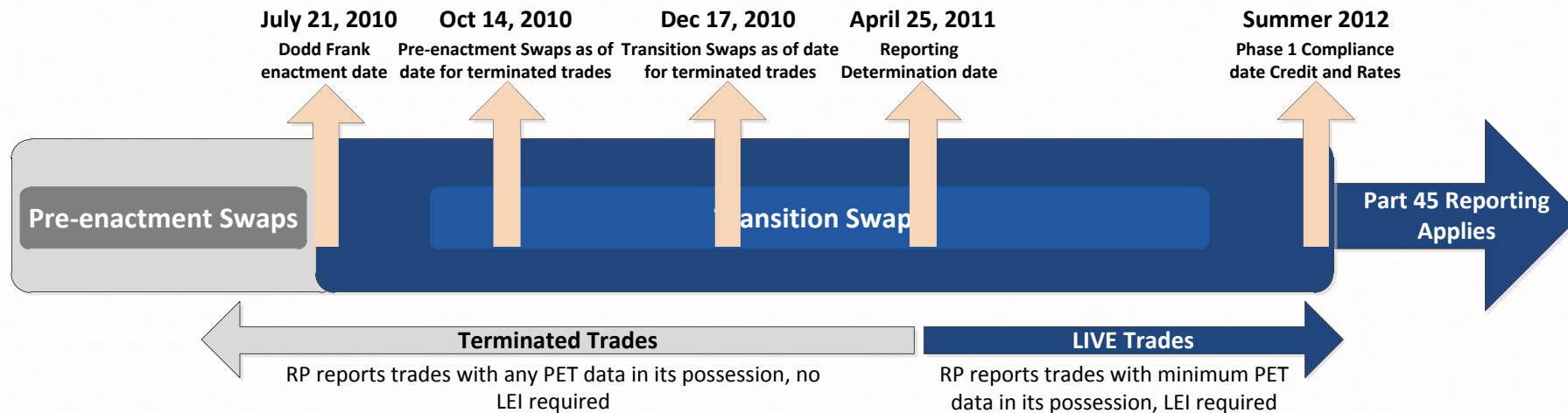
Data	Party Role	Requirement
Real-Time	All	<ul style="list-style-type: none"> <li>As soon as technically practicable</li> </ul>
PET	SD/MSP:	<ul style="list-style-type: none"> <li>Subject to Mandatory clearing: within 30 minutes after execution</li> <li>Not subject to mandatory clearing (Credit, Equity, FX, Rates): Within 1 hour after execution</li> <li>Not subject to mandatory clearing (Commodities): Within 4 hours after execution</li> <li>Counterparty is non-financial and trade is not electronically verified: Within 24 business hours after execution</li> </ul>
	Non-SD/MSP:	<ul style="list-style-type: none"> <li>Subject to Mandatory clearing: within 4 hours after execution</li> <li>Not subject to mandatory clearing: Within 48 business hours after execution</li> </ul>
	SEF/DCIM	<ul style="list-style-type: none"> <li>As soon as technologically practicable</li> </ul>
	DCO	<ul style="list-style-type: none"> <li>As soon as technologically practicable after clearing</li> </ul>
Confirm	SD/MSP:	<ul style="list-style-type: none"> <li>within 30 minutes after confirmation if electronically confirmed</li> <li>24 hours after confirmation if non-electronically confirmed</li> </ul>
	Non-SD/MSP:	<ul style="list-style-type: none"> <li>within 48 business hours after confirmation</li> </ul>
	SEF/DCIM	<ul style="list-style-type: none"> <li>As soon as technologically practicable</li> </ul>
	DCO	<ul style="list-style-type: none"> <li>As soon as technologically practicable after clearing</li> </ul>
Valuation	SD/MSP/DCO:	<ul style="list-style-type: none"> <li>Daily</li> </ul>
	Non-SD/MSP:	<ul style="list-style-type: none"> <li>Quarterly</li> </ul>
Other continuation data	SD/MSP/DCO:	<ul style="list-style-type: none"> <li>Lifecycle - same day as change</li> <li>State data - daily</li> </ul>
	Non-SD/MSP:	<ul style="list-style-type: none"> <li>Other Continuation Data - end of second business day following change</li> <li>State data - end of second business day following change</li> </ul>

# US Reporting requirements (Part 45)

- Recordkeeping Requirements
  - 5 year retention period following termination of the swap
  - Real time electronic access
  - Non-SD/MSP counterparty records within 5 business days throughout the record retention period
- Swap Data Creation and Continuation Data Reporting
- Unique Swap Identifiers (USIs)
  - First-touch creation of USIs
  - Reporting counterparty to create a USI for each of the individual swaps
- Legal Entity Identifiers
  - Need for an internationally established LEI
  - ISO Standard 17442, Legal Entity Identifier LEI
  - LEI utility
- Unique Product Identifiers



# US Historical Swaps (Part 46)



## Historical Swaps Live on or after April 25, 2011

- Creation data for all historical swaps “minimum PET in possession”
  - RP must report min PET in its possession, LEI CP ID, and internal transaction ID
  - Non-RP has 180 days to provide RP with LEI (46.4(b))
- Continuation data 46.3(a)(2) -- RP must report but applies only to uncleared data
- USI/UPI do not apply → practical challenges for continuation data reporting

## Historical Swaps Terminated prior to April 25, 2011

- RP reports with data “in possession”;
- If pre-enactment, then report as of October 14, 2010
- If Transition, then as of December 17, 2010
- LEI not required 46.4(c)



# EU Reporting Commencement & Requirements

## *When does EU reporting commence?*

- European swap data recordkeeping and reporting requirement, including the phase-in implementation timeline as follows:



- Unlike US, no real time reporting under EMIR, report on a T+1 basis
- Daily transaction reporting contemplated under MIFIR – 2015 implementation

# Reporting under EMIR (Article 9)

- **Who is required to report?**
  - Counterparties (all counterparties)
  - CCPs
- **What must be reported?**
  - Details of ANY (OTC and listed) derivative contract entered into, modified or terminated outstanding when EMIR enters into force
  - Final draft technical standards set out the detail to be included in reports
- **To whom?**
  - A regulated trade repository (or, if unavailable, to ESMA)
  - Obligation can be delegated but reports must not be duplicated
  - Secrecy rules cannot be breached by following obligations under EMIR – national banking law issues
- **When reported?**
  - By the working day following conclusion, modification or termination
- **Timing**
  - Retrospective in relation to contracts still ongoing when EMIR comes into force
  - Comes into force in manner and in accordance with timelines determined by ESMA (including phase-in for contracts entered prior to obligation)

# EU Historical Swaps

- Historical element
  - For contracts outstanding on 16 August 2012 and still outstanding on the reporting start date: within 90 days of the reporting start date
  - For contracts outstanding on 16 August 2012 but not outstanding on the reporting start date: within 3 years of the reporting start date
- Detail of the reports
  - Counterparty Data
  - Common Data
  - reporting or mark-to-market or mark-to-model valuations
  - Collateral – transactional or portfolio reporting

# Other Jurisdictions – Who Reports

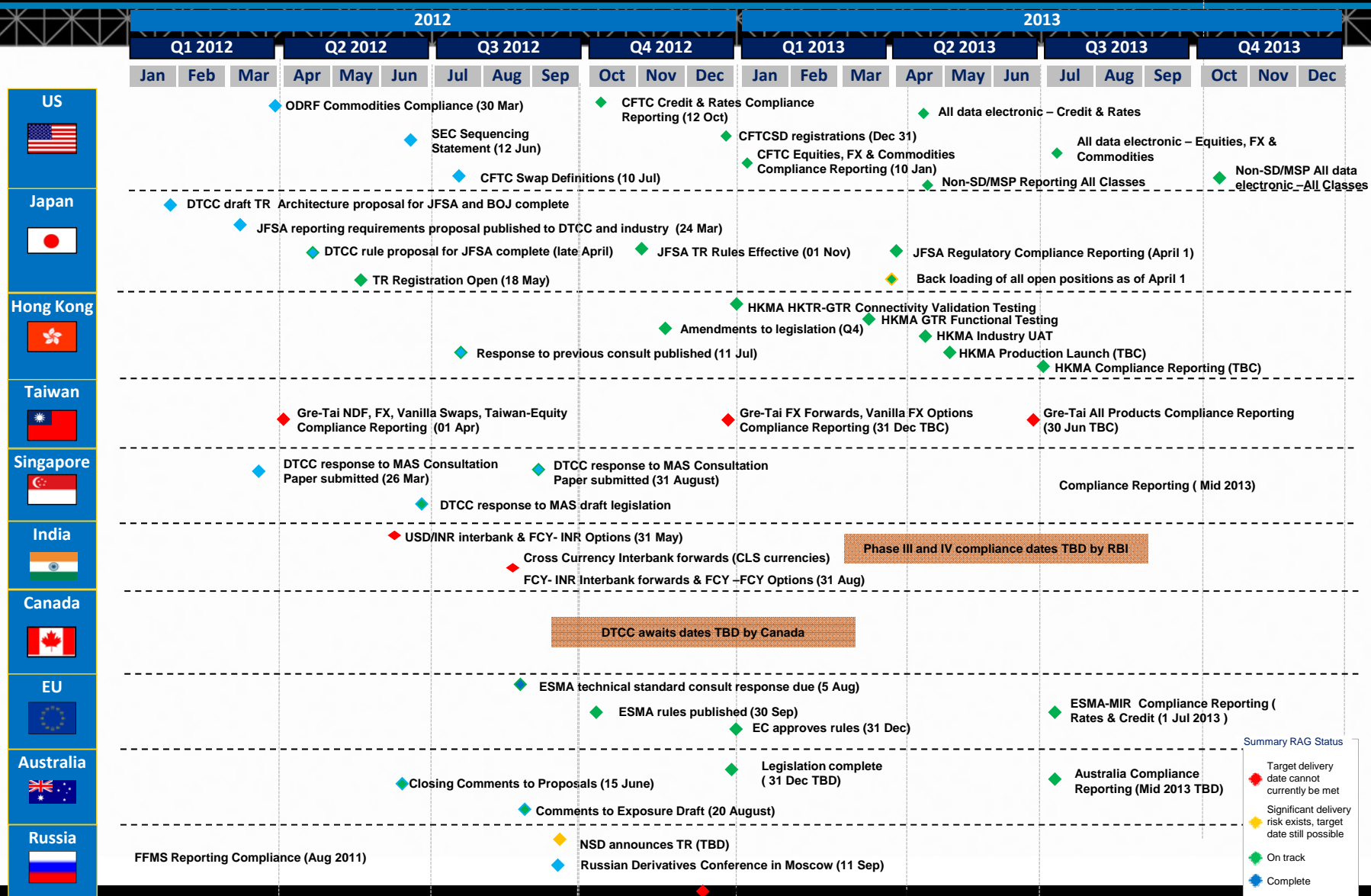
<b>Hong Kong</b>	<ul style="list-style-type: none"> <li>- “HK person” who is a counterparty and has exceeded a specified reporting threshold (assessed based on the total amount of gross positions held on a per product class basis). <ul style="list-style-type: none"> <li>- Exception: the counterparty is an authorized institution (AI), licensed corporation (LC) or approved money broker (AMB) that has an obligation to report such transactions.</li> </ul> </li> <li>- LCs, AMBs, locally-incorporated AIs and overseas AI acting through its HK branch who (i) are a counterparty OR (ii) have “originated or executed” the transaction where the transaction has a “HK nexus” <ul style="list-style-type: none"> <li>- Exception: in respect of (ii) only for Hong Kong Persons, the counterparty has confirmed that the transaction has been reported to HKMA-TR.</li> </ul> </li> <li>- Proposal that the HKMA may require a locally-incorporated AI to procure that one or more of its subsidiaries (as specified by the HKMA) to report their reportable transactions to the HKMA-TR separately (regardless of whether the subsidiaries’ own reporting obligation has been triggered – i.e. if its positions exceed the reporting threshold).</li> <li>- Exempted bodies: central banks, monetary authorities or public bodies charged with responsibility for the management of public debt and reserves and the maintenance of market stability, global institutions such as BIS, IMF.</li> <li>- Single-sided reporting not allowed, but intend to allow third party reporting (i.e. report via a global TR).</li> </ul>
<b>Singapore</b>	<ul style="list-style-type: none"> <li>- All financial entities (i.e. financial entities regulated by Monetary Authority of Singapore (MAS)) and non-financial entities (persons resident or having a presence in Singapore that are regulated by MAS) which exceed certain reporting threshold (which is expected to take into account the asset size of the non-financial entity).</li> <li>- Singapore-incorporated banks – proposal that reporting obligation apply on a group-wide basis for effective consolidated supervision</li> <li>- Proposed that TRs may allow for single-sided reporting (i.e. reporting by one party only) and third-party reporting (e.g. reporting via CCP or electronic trading platform).</li> <li>- Public bodies exempted.</li> </ul>
<b>Japan</b>	<ul style="list-style-type: none"> <li>- Type 1 Financial Instruments Business Operators (i.e. securities firms, investment advisors, investment managers etc. that are registered with the JFSA) and Registered Financial Institutions (i.e. banks, insurance companies and credit institutions that are registered with the JFSA)</li> <li>- Likely to exempt central banks.</li> </ul>

# Other Jurisdictions – What to Report

<b>Hong Kong</b>	<ul style="list-style-type: none"><li>- Administrative fields: information for facilitating processing and classification of trade data e.g. purpose, action type, event type, identity of reporting party, etc.</li><li>- Core trade details: amount, rate, identity of transacting parties, etc.</li><li>- However, for a reportable transaction which is intended to be centrally cleared, one reporting the transaction to the HKMA-TR must also: (i) report the fact that the transaction is anticipated to be cleared at a CCP, (ii) provide certain further information about the clearing arrangements as may be reasonably required, and (iii) keep the HKMA-TR updated on any subsequent changes arising from life cycle events as if the original transaction had not been centrally cleared.</li></ul>
<b>Singapore</b>	<ul style="list-style-type: none"><li>- Transaction-level data with the level of granularity to be in accordance with international standards : including at least transaction economics, counterparty information, information on the underlying entity, operational data and event data.</li><li>- Proposes that parties to a derivative contract be required to provide information updates to the eligible TR to ensure that TR data on the transaction remains accurate throughout the life of the transaction.</li></ul>
<b>Japan</b>	<ul style="list-style-type: none"><li>- Trade data required to be reported includes:<ul style="list-style-type: none"><li>-Names of the parties;</li><li>-Type of transaction (interest rate swap or CDS);</li><li>-Whether it is exempt from mandatory clearing through the CCP;</li><li>-Whether it is scheduled to be cleared through the CCP;</li><li>-Trade date;</li><li>-Effective date; and</li><li>-Termination date</li></ul></li><li>- No requirement to report all the trade data stipulated in the Cabinet Ordinance when reporting to the TR, but should instead to follow the TR reporting requirement.</li></ul>

# Other Jurisdictions – When to Report

<b>Hong Kong</b>	<ul style="list-style-type: none"><li>- Report details of trade by the end of the second business day following the trading date (i.e., on a “T+2” basis).</li><li>- Market participants will receive a 3-month grace period after implementation of reporting obligation for setting up their relevant systems. A 6-month grace period will be allowed for completing any backloading of transactions entered into prior to the triggering of the reporting obligation.</li></ul>
<b>Singapore</b>	<ul style="list-style-type: none"><li>- Proposes that entities report a derivative contract (and any subsequent updates) within one business day (i.e., “T+1”) of the transaction.</li><li>- Proposes to require backloading of pre-existing contracts with remaining maturity of greater than one year.</li></ul>
<b>Japan</b>	<ul style="list-style-type: none"><li>- Trade data reported to the TR or designated foreign TR shall be done so within three business days (i.e., “T+3”) after the trade is executed.</li></ul>



Summary RAG Status

- Target delivery date cannot currently be met
- Significant delivery risk exists, target date still possible
- On track
- Complete